

SECTION 13: RURAL CLUSTER DEVELOPMENT REGULATIONS

- A. **Authority.** Montana Code Annotated (76-3-509) gives Gallatin County the authority to adopt regulations that promote cluster development and the preservation of open space, and in doing so, establishes certain exemptions from the standard submittal requirements and review procedures established by the Montana Subdivision and Platting Act and the Subdivision Regulations. Pursuant to this authority, Gallatin County creates the Rural Cluster Development (“RCD”) Program.
- B. **Applicability.** Section 6.B of the Subdivision Regulations establishes residential development densities **(or minimum lot sizes)** for those portions of Gallatin County not within a municipality and not within a zoning district. The RCD Program and these corresponding RCD Regulations (“these Regulations”) provide an opportunity for landowners to increase densities above those described in Section 6.B. All development that occurs through the RCD Program is subject to these Regulations.
- C. **Mission and Purpose.** The RCD Program is intended to provide a mechanism for land development that recognizes and respects private property rights and community values, while at the same time encouraging land development that fosters continued agricultural and open space uses reflective of the County’s custom and culture. The purpose of the program is to:
1. Encourage new development to preserve and protect the diverse landscape and character of Gallatin County by recognizing distinct land types and acknowledging the multiple services they provide. For example, farm and ranchlands not only provide food and fiber, but also provide jobs and income, watershed protection, natural resource and ecosystem protection, and protection of historical and cultural sites.
 2. Recognize the changing needs of the agricultural community, and to encourage flexible and innovative development patterns that retain contiguous agricultural or open space land uses.
 3. Promote flexibility and innovation in new development by providing incentives such as: density bonuses, use of rural development standards, transferable development rights, conservation easements, and assistance with the design of projects.

4. Provide reasonable, fair, and predictable development standards that encourage land use designs to optimize preservation of environmental resources and lessen the cost of infrastructure, while assuring public health and safety concerns are addressed.
5. Consider the effects on infrastructure and the environment when awarding incentives.
6. Promote the goals of the Gallatin County Growth Policy and other plans adopted by the County, and to coordinate land-use decisions with other County regulations in an attempt to simplify the land development process.
7. Encourage public involvement and the early resolution of potential conflicts associated with new development and changing land uses.
8. Enable projects to be coordinated among separate parcels, and to facilitate cooperation among neighboring landowners to create joint development proposals, where possible.
9. Encourage and promote good use of land while responding to lifestyle choices.
10. Evaluate the impact of projects on rural communities and to support “right to farm” laws.

D. Definitions. For the purpose of these Regulations, the following definitions apply:

1. Cluster Development: A subdivision with lots clustered in a group of five or more lots that is designed to concentrate building sites on smaller lots in order to reduce capital and maintenance costs for infrastructure through the use of concentrated public services and utilities, while allowing other lands to remain undeveloped [per 76-3-103(2) M.C.A.].
2. Development Node: Areas designated on the preliminary project sketch, which in aggregate may not exceed 10% of the gross land area, and which shall include all areas of clustered development.
3. Development Restricted Land: Land restricted from development by one or more of the following means:
 - a. An irrevocable conservation easement;
 - b. Deed restriction;
 - c. Land divided as part of a platted subdivision and created as an open space or parkland tract; or
 - d. Land held in public ownership by a government agency.

4. **Open Space:** Land restricted from development by an irrevocable conservation easement, granted in perpetuity, as provided for in Title 76, Chapter 6 M.C.A. Open space shall be calculated by subtracting the following from the gross project area:
 - a. Building envelopes or in instances where the area of the lot is less than or equal to two acres, subtract the lot area;
 - b. Road right-of-way or public access easement; and
 - c. Utility easements, including land reserved for water or wastewater treatment facilities.

E. Participation and Incentives

1. **Use in conjunction with other options.** The Program Administrator will work with landowners and consider other tools that may be available to help them achieve their goals. Within the landowner specified project boundary, either the RCD or Transferable Development Rights (“TDRs”) option may be used, but not both. Platting of an RCD project eliminates the ability to use TDRs (send or receive) within the project boundary.
2. **Minimum project size.** In order to participate in the RCD Program, the project must involve a minimum of 80 acres.
3. **Maximum parcel size.** The maximum size of lots created through the RCD program is 40 acres, however lots greater than two acres in size shall contain a building envelope (not to exceed two acres in size). The following are exceptions to the limitation on maximum parcel size:
 - a. Open space lots may exceed 40 acres in size.
 - b. Where all the open space for a project is contained within a single lot, that one lot may exceed 40 acres in size, provided that a building envelope (maximum of two acres in size) is provided for all new residential development, including accessory structures.
 - c. Where existing development cannot fit inside a two-acre building envelope, the building envelope size and location shall be negotiated with the Program Administrator and approved by the Commission.
4. **Maximum number of lots.** A RCD project may contain a maximum of 16 residential lots/units. Projects may be greater than 16 residential lots/units where all of the following apply:
 - a. Lots are clustered in accordance with the development standards described in subsection I below; and

- b. The project is subject to the standard submittal requirements, design and improvement standards, and the review process for major subdivisions. Acceptable density for the project shall be determined in accordance with subsection G below.
- 5. **Minimum size of land to be preserved.** All RCD projects shall contain a minimum of 90% open space. This open space may be owned privately or by a property owners' association.
- 6. **Restrictions on open space.** In accordance with 76-3-509(2)(c) open space must be preserved through an irrevocable conservation easement, granted in perpetuity, as provided for in Title 76, chapter 6, M.C.A. prohibiting further division of the parcel.
- 7. **Design and improvement standards.** RCD projects shall comply with the design and improvement standards contained in sections 6 and 7 of the Subdivision Regulations, except where a different standard is described in subsection H and/or I below. Where there is a conflict, the standards described in subsection H and/or I shall govern.
- 8. **Exemption from the requirement to prepare an environmental assessment.** In accordance with 76-3-509 M.C.A., RCD projects are exempt from the requirement to complete an environmental assessment. This exemption does not apply to projects with more than 16 lots/units.
- 9. **Exemption from park dedication requirement.** No dedication of parkland is required for RCD projects.
- 10. **Opportunities to increase density.** As described in Section 6.B of the Subdivision Regulations, base density **or minimum lots size requirements** is established at one unit per 160 acres. Where an RCD project is designed to exceed the minimum development standards described in subsection I below, additional density shall be awarded on a points-based system as described in subsection G and Appendix J.
- 11. **County assistance with the design of the project.** To help a landowner or applicant (hereafter referred to as "the subdivider") meet their goals and minimize upfront costs, County staff shall be available to provide assistance in the design of the preliminary project sketch. Upon completion of the Site Analysis, the subdivider may have a representative of their choice prepare a preliminary project sketch in-lieu of the Program Administrator.

12. **Non-contiguous parcels under same ownership.** For the purpose of the RCD Program, non-contiguous parcels under the same ownership may be treated as a single project subject to the following conditions:
 - a. The Site Analysis shall be completed for all parcels involved in the project and the total acreage of all parcels shall be factored into the density calculations;
 - b. Where possible, all new residential development shall be restricted to the parcel that will have the fewest impacts if developed; and
 - c. The required conservation easement shall cover the appropriate portions of all parcels.

F. Rural Cluster Development Process.

1. Preliminary Meeting. Subdivider arranges an informal meeting with the RCD Program Administrator to discuss goals and assess which other land use planning tools may be available to help achieve those goals.
2. Site Analysis. County representatives and cooperating partners visit the property and, based on site-specific conditions and resources, analyze the appropriateness of the site for development. The Site Analysis outline is attached as Appendix J. For projects greater than 16 lots/units, an environmental assessment (instead of the Site Analysis) is completed by the subdivider's representative.
3. Preliminary Project Sketch. Based on the results of the Site Analysis (or environmental assessment where applicable), the Program Administrator or the subdivider's representative work with the landowner to create a preliminary project sketch.
4. Advisory Committee Review. The RCD Advisory Committee ("the Advisory Committee") reviews the project for compliance with the spirit and intent of the RCD program and against the evaluation criteria (as described in subsection G and Appendix J). The Advisory Committee may provide additional comments to the subdivider regarding the design of the project. As a courtesy, adjacent landowners are notified of this meeting and may attend or submit comments regarding the project.
5. Engineering Design. After review by the Advisory Committee the subdivider selects a qualified individual to assist them with the remainder of the process and the design of the project. Where, as a result of input from the subdivider's representative, substantial and/or material changes (as determined by the RCD Program Administrator) have been made to the design of the project, the application shall go back before the Advisory Committee before proceeding through the remainder of the review process.

6. **Pre-Application Review.** Pre-application review, as described in Section 3 .C of the Subdivision Regulations, is required for projects that will create 6 or more lots/units. Based on the size and scope of the project, and on the amount of information readily available to the Program Administrator from other sources, the Program Administrator may waive any of the pre-application plan submittal requirements described in Section 5.D of the Subdivision Regulations. The pre-application review may take place concurrently with the Advisory Committee's review of the project, however the Program Administrator's pre-application comments shall not be finalized until the Advisory Committee has scored the project.
 7. **Preliminary Plat Submittal and Review.** A preliminary plat is prepared in accordance with Section 5.E of the Subdivision Regulations and submitted to the RCD Program Administrator along with the applicable submittal materials. The RCD Program Administrator shall review the application pursuant to the review procedures for major and minor subdivisions established in the Subdivision Regulations. In reaching their decision to approve, conditionally approve, or deny the application, the Commission, among other factors, shall consider the RCD Evaluation Criteria and the recommendation(s) of the Advisory Committee and Planning Board.
 8. **Final Plat Review.** The final plat submittal requirements and review process shall follow the procedures established in the Subdivision Regulations.
- G. **Evaluation Criteria.** Rural Cluster Development projects are evaluated by the Evaluation Criteria Worksheet included in Appendix J, which implements a points-based scoring system. Densities above and beyond one unit per 160 acres shall be based on the following:
1. The Evaluation Criteria Worksheet included in Appendix J is divided into two categories, Primary Criteria and Rural Cluster Criteria, each worth 100 points. In order to achieve density above 1 unit per 160 acres, projects must score a minimum of 50 points in each of the two categories, and 120 points total. For projects scoring greater than 120 points, bonus points, as described in the Evaluation Criteria Worksheet, may be used to obtain additional density. Density shall be awarded according to the following table:

<u>Point Range</u>	<u>Allowable Density</u>
119 or less points	1 unit per 160 acres
120 – 139 points	1 unit per 80 acres
140 – 169 points	1 unit per 60 acres
170 – 200 points	1 unit per 40 acres

2. Exceptions. The status of the access road(s) shall take precedent over the score on the evaluation worksheet for the final determination of density. Where it is unclear, the County Road and Bridge Department shall make the final call as to the appropriate status of the access road. Access road(s) status and final allowable density are as follows unless the applicant agrees to make the required improvements to the primary access road to bring it up to current County standards: This Section (G.2) and the following table are especially difficult and we are looking for comments and suggestions.)

<u>Status of Primary Access Road</u>	<u>Maximum Allowable Density</u>
Access is provided on a non-public road, or access is provided on a public road that is not a year-round road with an all weather surface.	No subdivision allowed
Access is provided on an unpaved public road, whether County-maintained or not, and the road does not meet current County standards.	1 unit per 80 acres.
Access is provided on an unpaved public road, whether County-maintained or not, and the road meets current County standards.	1 unit per 60 acres.
Access is provided on a paved public road, whether County-maintained or not, and the road does not meet current County standards.	1 unit per 60 acres.
Access is provided on a paved public road, whether County-maintained or not, and the road meets current County standards.	1 unit per 40 acres.
Access is provided by a paved State-maintained public road.	1 unit per 40 acres.

3. Number of Allowable Units. The final number of units allowed within a project shall be determined by taking the gross acreage of the project and dividing by the maximum allowable density. Where the result is not a whole number, the final number of allowable units shall be determined by normal means of rounding.

H. Design and Improvement Standards

1. Roads

- Access Roads. As described above, the status of access roads is a major determinant of allowable density. Subject to the scoring of the evaluation criteria, it is possible to increase maximum allowable density by making improvements to the access roads.
- Interior Road Standards. Interior subdivision roads shall meet the standards described in Section 7 of the Subdivision Regulations with the exception of the following:

- a. For projects with 16 or less units, right of way width may be reduced to forty feet (40') where, based on site conditions, a County standard road with required drainage improvements can fit within a forty-foot (40') right-of-way;
 - b. Interior subdivision roads do not require paving, however the requirements of Section 7.C of the Subdivision Regulations apply;
 - c. Section 7.A.7 of the Subdivision Regulations requires all subdivisions with six (6) or more lots to provide a second means of physical access. Where the intent and goals of this program would be better served by a single access, the Commission may allow such, without the need for a variance, provided that doing so does not compromise traffic safety, the provision of emergency services, or the placement of utility easements;
 - d. Cul-de-sac length may be up to 2500 feet in length with the condition that cul-de-sacs greater than 1000 feet in length shall provide turnouts every 500 feet.
2. Lot Size and Shape. It is recognized that variations in the size and shape of lots may be necessary to accomplish the goals of the RCD Program. Reasons other than topography or other physical constraints may be adequate to justify irregular lot shapes. While lots created through the RCD process must have thirty feet (30') of frontage on a public road or public road easement, and lots must be wide enough to allow normal construction, the lot depth requirements described in Section 6.B.6 of the Subdivision Regulations do not apply.

I. **Minimum Development Standards.** The development standards described here are minimum standards. In accordance with the worksheet described in subsection G and attached as Appendix J, the ability to develop at densities greater than one unit per 160 acres is based on site-specific conditions and performance above and beyond these minimum standards.

- 1. Open Space: Open space provided as part of RCD projects shall meet the following requirements:
 - a. All Rural Cluster Development projects shall contain a minimum of 90% open space.
 - b. The open space created by a Rural Cluster Development project shall be designed to connect to Development Restricted Land on adjacent properties, where such Development Restricted Land exists and where such connection is feasible.
 - c. Open space may be located on individual lot(s) or as a separate open space lot.

2. Clustering of New Development. Lot layout shall be designed such that new development is located in one or more areas of concentrated development (otherwise referred to as “development nodes”), subject to the following requirements:
 - a. Development nodes shall be located such that they support the goals of the RCD program and satisfy the evaluation criteria to the maximum extent possible. Development nodes shall not occupy more than 10% of the gross land area.
 - b. Projects with less than 10 lots/units shall be located within one development node.
 - c. Projects with 10 or more lots/units may split the new development up between two or more development nodes, however, each development node shall consist of at least five lots.
3. Existing Structures: The following apply to existing structures located within the boundaries of RCD projects:
 - a. Existing residential structures shall be counted as dwelling units and deducted from the number of new dwelling units that will be allowed. At the discretion of the Commission, farmsteads and residential buildings that are accessory to the farmstead may be counted as a single dwelling unit provided the project is designed so that all the subject structures are located on a single lot;
 - b. Where existing structures are located in an area that complies with the spirit, intent, and requirements of the RCD Program, new development shall be clustered around the existing structures if feasible; or
 - c. Where existing structures are a farmstead and associated accessory buildings, and the intent is to continue to use the subject structures to support an agricultural operation, the development node(s) may be located in another portion of the property that satisfies the spirit, intent, and requirements of the RCD Program to the maximum extent possible.
4. Distance from Existing Public Roads:
 - a. In an effort to minimize the amount of new infrastructure, RCD projects, shall be designed to place development nodes as close as practicable to existing public roads, while considering site conditions and RCD Program goals.
 - b. Unless a variance is obtained, all new residential building sites shall be located within 2,500 feet of an existing public road.

5. Siting of New Development: The Site Analysis identifies both natural and cultural resources as well as other physical constraints to developing the property. Development nodes shall be located to minimize the impact to identified resources, protect public health and safety, and to achieve the spirit and intent of the RCD Program to the maximum extent possible.

J. Administration

1. RCD Program Administrator. The RCD Program Administrator is responsible for coordinating and administering the RCD Program. The Commission shall designate a RCD Program Administrator, which may be the Planning Director or other designee of the Commission.
2. RCD Advisory Committee. The Commission shall establish the RCD Advisory Committee and shall adopt bylaws governing the makeup of the Committee, term limits for members, and other administrative and procedural requirements.

F:\PLNG\Growth Policy Implementation\Draft documents\Rural_Cluster_Regulations_11_28_06.doc